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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/105,572	06/26/1998	DOUGLAS W. HALL	CORN-0002	5745

7590 01/11/2008  
MOSER, PATTERSON & SHERIDAN, L.L.P.  
3040 POST OAK BOULEVARD, SUITE 1500  
HOUSTON, TX 77056

EXAMINER
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WONG, ERIC K

ART UNIT	PAPER NUMBER
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2883

MAIL DATE	DELIVERY MODE
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01/11/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/105,572	<b>Applicant(s)</b> HALL ET AL.	
	<b>Examiner</b> Eric Wong	<b>Art Unit</b> 2883	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 August 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 36, 39-41 and 43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 39-41 and 43 is/are allowed.
- 6) ☒ Claim(s) 36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/16/07 has been entered.

### ***Response to Arguments***

2. Applicant's arguments, filed 8/16/07, with respect to the rejections of claims 39-41 and 43 have been fully considered and are persuasive. However, Examiner respectfully disagrees with arguments for claim 36. Applicant argues Grasso (lost count 2 / Estoppel) fails to disclose a second fiber end connected in series. As noted in page 5, of the office action dated 4/7/06, Grasso teaches in the background that the use of such was known in the art to attenuate noise and one having ordinary skill in the art would use such a pump-light attenuating fiber to attenuate noise.

### ***Estoppel***

Claim 36 is rejected as unpatentable over the lost count 2 on the grounds of Estoppel.

The lost Count 2:

A fiber amplifier comprising  
a gain optical fiber having a single-mode core containing dopant ions capable of  
producing stimulated emission of light within a predetermined band of wavelengths

including a wavelength ,  $\lambda(s)$  when pumped with light of wavelength ,  $\lambda(p)$ , said gain fiber having input and output ends, said dopant ions being selected from the group consisting of erbium, neodymium and praseodymium, filtering means for attenuating light at least some of the wavelengths within said predetermined band of wavelengths, said filtering means containing a dopant selected from the group consisting of erbium, dysprosium, neodymium, ytterbium, samarium, praseodymium, thulium, vanadium and cadmium selenide, means for introducing a signal of wavelength  $\lambda(s)$  into said gain fiber input end, and means introducing pump light of wavelength ,  $\lambda(p)$  into said gain fiber.

The only differences between claim 36 and the count 2 are 1) that the gain fiber is limited to a fiber “having only one single-mode core” in contrast to count 2 which includes a gain fiber “having a single-mode core”, and 2) the lost count 2 certainly anticipates gain fiber having only one single mode core as claimed in claim 36 of this reissue application, since lost count 2 refers to a gain optical fiber having a single mode core. The only difference between amended claim 36 and the lost count 2 is the further limitation as to first and second pump light-attenuating fiber sections. Grasso teaches in the background that the use of such was known in the art to attenuate noise (col. 2, lines 43-53). Certainly the ordinary artisan would know to use such a pump light-attenuating fiber(s) [Applicant's first and second pump light-attenuating fiber sections utilizing a dopant that substantially attenuates pump light] to attenuate noise. Also, here duplication of parts is not patentably distinct [MPEP 2144.04].

***Allowable Subject Matter***

3. Claims 39-41 and 43 are allowed. The prior art made of record fails to explicitly disclose prevention of excitation of the filtering means by a light of wavelength  $\lambda(p)$  between a gain optical fiber and filtering means.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Wong whose telephone number is 571-272-2363. The examiner can normally be reached on Monday through Friday, 830AM - 430PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank Font can be reached on 571-272-2415. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

//Eric Wong//

EW

Michelle R. Connelly-Lushwa  
Michelle R. Connelly-Lushwa  
Primary Examiner 1/8/07